

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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RICHARD SPOSATO,

Plaintiff,

v.

5:23-CV-364  
(GTS/MJK)

PAUL G. CAREY, et al.,

Defendants.

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RICHARD SPOSATO, Plaintiff, pro se

MITCHELL J. KATZ, U.S. Magistrate Judge

**DECISION and ORDER**

On July 27, 2023, U.S. Magistrate Judge Andrew T. Baxter issued an Order and Report-Recommendation (“ORR”) in this action. (Dkt. No. 10). In the ORR, Judge Baxter, among other things,<sup>1</sup> reviewed the plaintiff’s amended civil rights complaint (Dkt. No. 7) pursuant to section 1983.<sup>2</sup> (Dkt. No. 10). Based upon his initial review, and after finding that plaintiff met the financial criteria to proceed IFP, Judge Baxter recommended that plaintiff’s excessive force claim proceed as against defendant Matthew Ryan. (*Id.*). Judge Baxter further recommended that the remaining defendants and causes of action set forth in the amended complaint be dismissed with prejudice. (*Id.*).

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<sup>1</sup> Plaintiff also had a pending motion for recusal, which Judge Baxter also considered, and denied, in his ORR. (Dkt. Nos. 8, 10).

<sup>2</sup> The court assumes familiarity with, and refers to, Judge Baxter’s ORR for a summary of the facts in the amended complaint. (Dkt. No. 10 at 5-18).

Plaintiff filed objections to Judge Baxter's ORR on August 11, 2023, and also attempted to file a second, and then third, amended complaint prior to the district court's ruling on the ORR. (Dkt. Nos. 12, 13, 15). On February 15, 2024, District Court Judge Glenn T. Suddaby adopted Judge Baxter's ORR, ordering that plaintiff's second and third amended complaints be stricken from the docket and that the case be referred to me<sup>3</sup> for an order directing service of the amended complaint on remaining defendant Ryan. (Dkt. No. 19).

**WHEREFORE**, based on the findings above, and in Judge Baxter's ORR (Dkt. No. 10) and Judge Suddaby's Decision and Order (Dkt. No. 19), it is

**ORDERED** that the Clerk shall issue a summons and forward it, along with a copy of the amended complaint (Dkt. No. 7), a packet containing General Order 25, which sets forth the Civil Case Management Plain used by the Northern District of New York, and a copy of this Decision and Order, Judge Baxter's ORR, and Judge Suddaby's Order (Dkt. Nos. 10, 19) to the United States Marshal for service upon defendant **MATTHEW W. RYAN**; and it is

**ORDERED** that a response to plaintiff's amended complaint be filed by the named defendant or his counsel as provided for in the Federal Rules of Civil Procedure; and it is

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<sup>3</sup> On January 5, 2024, for administrative reasons entirely unrelated to plaintiff's requests that Judge Baxter be recused as magistrate judge, this case was reassigned to me for all further proceedings by Chief U.S. District Judge Brenda K. Sannes. (Dkt. No. 16). The court's denial of plaintiff's ongoing requests to have Judge Baxter and/or any other subsequent magistrate judge recused from this action was affirmed by Judge Suddaby on February 15, 2024. (Dkt. Nos. 8, 10, 16, 17, 19).

**ORDERED** that all pleadings, motions, and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7<sup>th</sup> Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket.** Plaintiff must comply with all requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with the Local Rules of the Northern District of New York in filing motions. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; his failure to do so will result in the dismissal of this action;** and it is

**ORDERED** that the Clerk shall serve a copy of this Decision and Order on plaintiff.

Dated: February 21, 2024

  
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Mitchell J. Katz  
U.S. Magistrate Judge